

**To:** Auerbacher, Kevin[Auerbacher.Kevin@epa.gov]  
**From:** Logan, Paul  
**Sent:** Fri 5/9/2014 3:24:21 PM  
**Subject:** RE: NOI LEAD NAAQS- Deliberative  
[WY RH 5 8 14.docx](#)  
[PavillionUpdateMay2014onepage.docx](#)  
[WindRiverTASUpdateMay2014.docx](#)

Kevin,

Attached are the one-pagers on Wind River TAS and Pavillion groundwater. Also attached, if it'd be helpful, is a brief summary of the WY regional haze matter.

Please let me know if you need anything else -

**Paul Logan**

Deputy Regional Counsel | EPA Region 8

303.312.6854 | [logan.paul@epa.gov](mailto:logan.paul@epa.gov)

**From:** Auerbacher, Kevin  
**Sent:** Thursday, May 08, 2014 5:06 PM  
**To:** Logan, Paul  
**Subject:** Re: NOI LEAD NAAQS- Deliberative

Great thank you.

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**From:** Logan, Paul  
**Sent:** Thursday, May 8, 2014 6:57:03 PM  
**To:** Auerbacher, Kevin  
**Subject:** Re: NOI LEAD NAAQS- Deliberative

I left you a voicemail as well, and neglected to mention that I also owe you one pagers on Wind River

TAS and Pavillion groundwater. I send those by noon eastern tomorrow.

Paul

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**From:** Auerbacher, Kevin  
**Sent:** Thursday, May 8, 2014 4:53:05 PM  
**To:** Logan, Paul  
**Subject:** Re: NOI LEAD NAAQS- Deliberative

Thanks Paul.

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**From:** Logan, Paul  
**Sent:** Thursday, May 8, 2014 6:28:59 PM  
**To:** Auerbacher, Kevin  
**Subject:** RE: NOI LEAD NAAQS- Deliberative

Kevin,

Attached is a summary of the Hamilton case prepared by the region, as well as two orders from the court – the first concerning WOUS issues and CWA 404 permit applicability issues on summary judgment, and the second concerning the jury verdict on the CWA 404 permit issues.

**Ex. 5 - Attorney Work Product**

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**Paul Logan**

Deputy Regional Counsel | EPA Region 8

303.312.6854 | [logan.paul@epa.gov](mailto:logan.paul@epa.gov)

**From:** Auerbacher, Kevin  
**Sent:** Wednesday, May 07, 2014 3:56 PM  
**To:** Logan, Paul  
**Subject:** RE: NOI LEAD NAAQS- Deliberative

Thanks. I would be interested in the WOUS federal court decision too if you can easily put your hands on it.

**From:** Logan, Paul  
**Sent:** Wednesday, May 07, 2014 5:46 PM  
**To:** Auerbacher, Kevin  
**Subject:** RE: NOI LEAD NAAQS- Deliberative

I'm checking on this, and will get back to you -

**Paul Logan**

Deputy Regional Counsel | EPA Region 8

303.312.6854 | [logan.paul@epa.gov](mailto:logan.paul@epa.gov)

**From:** Auerbacher, Kevin  
**Sent:** Wednesday, May 07, 2014 3:43 PM  
**To:** Logan, Paul  
**Subject:** FW: NOI LEAD NAAQS- Deliberative

Paul,

Do you know when the NOI response letter will issue? Thanks. Kevin

**From:** Orlin, David  
**Sent:** Wednesday, May 07, 2014 11:29 AM  
**To:** Auerbacher, Kevin  
**Subject:** RE: NOI LEAD NAAQS

Kevin,

## Ex. 5 - Attorney Work Product

David Orlin

U.S. EPA, Office of General Counsel

(202) 564-1222

**From:** Auerbacher, Kevin  
**Sent:** Wednesday, May 07, 2014 11:15 AM  
**To:** Orlin, David  
**Subject:** NOI LEAD NAAQS

David,

Patricia indicated this morning that you would be familiar with the NOI discussed in the article which appears below. Do you have a copy of the actual Notice? I would also appreciate any general background you could provide on the status. Avi is meeting with the Wyoming AG next Tuesday in Cheyenne. Thanks.

CHEYENNE – Governor Matt Mead asked the Wyoming Attorney General to notify the Environmental Protection Agency that Wyoming will sue the agency for its failure to take action on a state plan for air quality regulation. The EPA did not act on Wyoming's plan for protecting the public from lead pollution. The State submitted its plan to the EPA in October 2011. This is the second time in six months, the EPA has failed to act on a Wyoming plan and the second notice Wyoming has given.

"Wyoming met its responsibility – a plan for protecting air quality. In turn, the EPA was required to review

Wyoming's plan within eighteen months. The EPA has not responded. Because the EPA failed to act it could be sued by any entity – environmental, industrial, or other – and Wyoming would not be in a position to participate. Wyoming must have a voice in Wyoming's plan," Governor Mead said. "I hope EPA approves our plan and we can work together going forward."

The state plan is designed to ensure compliance with the lead National Ambient Air Quality Standard established in 2008. Under the Clean Air Act, EPA was required to approve or disapprove of that plan before April 2013. This is a non-discretionary duty under federal law.

Wyoming has notified the EPA it will file a civil action by the end of June if the EPA does not act on the state plan before then.